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Patricia E. Koch
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August 4, 1997

Ex Parte

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Rm. 222
Washington, D.C. 20554

Re: CC Docket 96-98

Dear Mr. Caton:

The attached letter is being delivered today to Jake Jennings of the Policy and Program Planning Division regarding the above referenced proceeding.

Please enter this material into the record as appropriate. Should you have any questions please do not hesitate to contact me.

Sincerely,

Attachment

cc: L. Gelb
K. Gude
D. Stockdale

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Ex Parte

Mr. Jake Jennings
Policy and Program Planning Division
Federal Communications Commission
1919 M Street, N.W. Rm . 544
Washington, D.C. 20554

Re: Shared Transport - CC Docket 96-98

Dear Mr. Jennings:

This letter responds to the questions you posed regarding the applicability of UNE transport ("shared transport") to interexchange traffic. Specifically, you described a scenario in which a CLEC is routing interexchange traffic via UNEs to an interexchange carrier for completion and one where that same IXC terminates interexchange traffic to an end user that is not served by the CLEC. Additionally, you asked for input regarding the traffic routing capabilities of end office and tandem switches.

The attachment provides the information you requested. Please do not hesitate to contact me should you have any questions regarding this material.

Sincerely,

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Shared Transport Questions

Q1) If a LEC is purchasing UNE elements, including shared transport, can IXCs that are served by the CLEC (or are reselling the CLEC Service) use shared transport to terminate traffic to the BA customers, or in other words, to the extent that IXCs are terminating traffic to BA customers and are subject to Part 69 access charges, can you plug in the shared transport UNE charge (for the Part 69 transport charges) while retaining the other Part 69 access elements (MIX and MATCH)?

A1) The simple answer to the question is no. The IXC would not be purchasing any UNE elements and therefore would not be entitled to UNE pricing. The IXC would instead be using Part 69 Common Transport access services and must therefore pay access rates – not UNE rates.

When a CLEC wins a local service customer, it may purchase Bell Atlantic UNE elements to serve that customer. Shared transport is one of the UNE elements that the CLEC could use to provide telecommunications services to its customers, such as the completion of local calls. It is also entitled to use that same element to provide other telecommunications services, such as exchange access, to IXCs.

As the Commission has explained, "[c]arriers requesting access to unbundled elements within the incumbent LEC's network seek in effect to purchase the right to obtain exclusive access to an entire element, or some feature, function or capability of that element."[1] In addition, incumbent LECs must "provide requesting carriers with all of the functionalities of a particular element, so that requesting carriers can provide any telecommunications services that can be offered by means of the element."[2] Accordingly, a CLEC that purchases a shared transport UNE element is entitled to exclusive use of that element to provide exchange access service to IXCs that provide interexchange services to the CLEC's customer or complete interexchange calls to the CLEC's customer.

If an IXC accepts an interexchange call from the CLEC's customer at Bell Atlantic's access tandem, the IXC is receiving exchange access services from the CLEC because it is using the CLEC's shared transport UNE element to carry the call between Bell Atlantic's end office and access tandem. In this case, the IXC must pay the CLEC for the exchange access services it received from the CLEC and the CLEC must pay Bell Atlantic for the shared transport UNE element it used to provide exchange access services to the IXC.[3]

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[1] First Report and Order at 🕮 258. *See also* 47 C.F.R. § 51.309 (c).

[2] First Report and Order at 🕮 292.

[3] See First Report and Order at note 772 ("where new entrants purchase access to unbundled network elements to provide exchange access services, whether or not they are also offering toll services through

The analysis is the same where the IXC delivers a call for the CLEC's customer at Bell Atlantic's access tandem. Again, the IXC is receiving exchange access services from the CLEC to transport the call between Bell Atlantic's access tandem and end office, and the CLEC is using UNE elements to provide those access services. The IXC does not have the option of purchasing a UNE element directly from Bell Atlantic to transport a call for the CLEC's customer from Bell Atlantic's access tandem to its end office. The CLEC has already purchased that UNE element from Bell Atlantic and is entitled to "exclusive" use of that element to provide exchange access service to IXCs.

The result is no different where Bell Atlantic is the customer's local service provider. In that case, Bell Atlantic has effectively "purchased" the UNE elements needed to serve that customer and is entitled to the same exclusive use of those elements. IXCs that choose to deliver or accept interexchange calls for Bell Atlantic's customer at the access tandem will receive Bell Atlantic's Common Transport access services and must pay access rates for those services.

The notion that a local exchange carrier might provide a Common Transport access service and "plug in the shared transport UNE charge" is directly at odds with the First Report and Order. The Commission made clear that UNE elements are not the same as access services.

> **When IXCs purchase unbundled elements from incumbents, they are not purchasing exchange access 'services.' They are purchasing a different product, and that product is the right to exclusive access or use of an entire element.**[4]

Otherwise, there would be no rational basis for setting different rates for access services and UNE elements.[5]

The difference between the shared transport UNE element and the Common Transport access service is a simple one. The shared transport UNE element can be used for carrying the calls of an individual customer. By contrast, the Common Transport access service is available for carrying calls to or from any customer served by the Bell Atlantic end office.

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such elements, the new entrants may assess exchange access charges to IXCs originating or terminating toll calls on those elements").

[4] First Report and Order at ¶ 358.

[5] *See* First Report and Order at 🕮 358 ("[w]hen states set prices for unbundled elements, they will be setting prices for a different product than 'interstate exchange access services').

This is the same distinction the Commission drew between the local switching UNE element and the Local Switching access service. On reconsideration in Docket 96-98, the Commission held that "a carrier that purchases the unbundled local switching element to serve an end user effectively obtains the exclusive right to provide all features, functions, and capabilities of the switch, including switching for exchange access and local exchange service, for that end user."[6] By defining the local switching UNE element in this fashion, the Commission "effectively preclud[ed] the requesting carrier from using unbundled switching to substitute for switched acces services where the loop is used to provide both exchange access to the requesting carrier and local exchange service by the incumbent LEC."[7]

The same reasoning applies to the shared transport UNE element. Where a CLEC purchases the shared transport UNE element to serve a particular customer, it is entitled to use that element to provide exchange access services. An IXC cannot purchase the very same element to provide interexchange service to end users for whom it does not also provide local exchange service. Likewise, an IXC cannot purchase a shared transport UNE element to terminate interexchange calls to Bell Atlantic end users for whom the IXC does not also provide local exchange service. In either case, the IXC is receiving a Common Transport access service and must pay the CLEC and Bell Atlantic their appropriate access rates.

Q2) Are the same routing tables/functions used to route traffic for UNE originated traffic versus traffic originated using Part 69 access charges?

A2) To the extent that a CLEC decides to use BA shared transport facilities (a.k.a. unbundled common transport) for the routing of local, toll, and exchange access services to/from their (CLEC's) end users in an identical manner as for BA end users for the same types of traffic, then, although new line class code tables have to be established for the CLECs end users, the **same end office routing tables and functions can and would be used** to route UNE and BA end user traffic. This would include UNE originated traffic to IXCs via unbundled common transport facilities (billed to the CLEC), and traffic originated by BA end users using Part 69 access charges via **the same facilities** designated as common transport in Part 69 (billed to the IXC).

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[6] Order on Reconsideration at 🕮 11.

[7] *Id.*

However, with limited exceptions, if the CLEC opts to route any or all of the traffic from their end users in a different manner than BA routes the same traffic for its end users, then the CLEC would be requesting **"Customized Routing"**. In this case BA would create separate routing tables for that CLEC, even in the case where the requested routing of originated UNE traffic to IXCs is the same as for BA's routing to those same IXCs for its end users. If the CLEC were to request customized routing of its UNE originated traffic to IXCs, then separate routing tables would definitely be required.

Q3) Are the routing functions at the tandem the same or equivalent to those at the end office?

A3) No. The routing functions at the end office are much more detailed than at the tandem. For originating interexchange (IXC) traffic at an end office, the routing is determined by the type of traffic (e.g. DDD, Operator, etc.), the IXC that the end user is trying to reach (either via the presubscription feature or via the 10XXX code dialed by the end user), and the routing requested by the IXC (direct vs tandem routed) for that traffic type(s). Basically, the routing information is "created" at the end office. The tandem performs a very simple routing function in relation to the end office. The originating IXC traffic received by the tandem from the end office contains all of the information the tandem needs for routing; i.e. an indicator for the type of traffic and the 5 or 7 digit Carrier Identification Code (10XXX or 101XXXX). Based on these data, the tandem's routing tables selects the appropriate trunk group to the IXC's POP(s).